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the Equitable Assurance Society of the United States. Bill dismissed, and decree for Mollie B. Wilson on her cross-bill. Defendant Society appeals. Affirmed.

Wm. W. Old & Son, for appellant

C. C. Berkley and *C. C. Mitchell*, for appellees.

VIRGINIA-CAROLINA CHEMICAL CO. *v.* SOUTHERN EXPRESS CO.

Jan. 13, 1910.

[66 S. E. 838.]

1. Carriers (§ 159*)—Loss or Damage to Goods—Rules for Presenting Claims.—Provisors in carriers' receipts requiring claims to be presented in writing within 30 days are not deemed contracts against negligence, but are upheld as reasonable provisions, binding the shipper.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. §§ 670, 671, 712; Dec. Dig. § 159.* 2 Va.-W. Va. Enc. Dig. 677; 14 id. 187.]

2. Carriers (§ 159*)—Loss or Damage to Goods—Presentation of Claims—Waiver of Provision.—That after a carrier had lost a package of notes, and the shipper had failed to present claim therefor within the time prescribed by the rule of the company, the carrier's agent attempted to lessen the shipper's damage by collections on the lost notes, and did so materially, did not amount to a waiver of the provision by the carrier.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 714; Dec. Dig. § 159.* 2 Va.-W. Va. Enc. Dig. 677; 14 id. 187.]

Error to Circuit Court of Richmond.

Action by the Virginia-Carolina Chemical Company against the Southern Express Company. Judgment for defendant, and plaintiff brings error. Affirmed.

Coke & Pickrell, for plaintiff in error.

Thos W. Shelton and *A. S. Buford, Jr.*, for defendant in error.

WRIGHT *v.* ATLANTIC COAST LINE R. CO.

Jan. 13, 1910. Rehearing Denied.

[66 S. E. 848.]

1. Railroads (§ 386*)—Injury to Person on Track—Contributory Negligence—Avoiding Defense.—Plaintiff, who, at a flag station, mistaking a freight train for a passenger train, gave the flag signal for

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

stopping a passenger train, and though the train did not stop, as it was under no obligation to do, remained on the track, and was struck, cannot avoid the defense of contributory negligence on the ground that she was attempting to rescue another from imminent danger caused by defendant's negligence, though plaintiff's mother, who had seen her flagging, and so knew a train was coming, was approaching the track on a highway, and the train did not give the crossing signal, or slacken its speed, and plaintiff shouted to her mother, and continued on the track trying by her signals to stop the train; the omission to give the crossing signal not having caused the peril, because the mother knew the train was coming, and no duty resting on persons operating a train to stop it or slacken its speed when seeing a person approaching a crossing along a highway.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 1295; Dec. Dig. § 386.* 11 Va.-W. Va. Enc. Dig. 591, et seq.]

2. Railroads (§ 377*)—Injury to Person on Track—Duty to Stop.—Persons in charge of a freight train seeing a person on the track at a flag station giving them the signal for a passenger train to stop may assume the person will get off the track, and so are not negligent in not stopping.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 1280; Dec. Dig. § 377.* 11 Va.-W. Va. Enc. Dig. 580.]

3. Carriers (§ 327*)—Duty of Passenger—Ordinary Care.—Even if one signaling a train at a flag station to stop be considered a passenger, she owes the duty of exercising ordinary care for her safety.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. §§ 1363-1366; Dec. Dig. § 327.* 2 Va.-W. Va. Enc. Dig. 707.]

4. Negligence (§ 111*)—Pleading—Willful and Wanton Negligence.—Willful and wanton negligence is not sufficiently charged by the mere allegation that plaintiff was willfully and wantonly injured, without any statement of facts to show it.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. §§ 182-184; Dec. Dig. § 111.* 10 Va.-W. Va. Enc. Dig. 398, et seq.]

Error from Circuit Court, Nansemond County.

Action by Maude L. Wright against the Atlantic Coast Line Railroad Company. Judgment for defendant. Plaintiff brings error. Affirmed.

Ro. W. Withers, for plaintiff in error.

D. Tucker Brooke, *E. E. Holland*, and *Wm. B. McIlwaine*, for defendant in error.

*For other cases see same topic and section NUMBER in Dec. & Am. Digs. 1907 to date, & Reporter Indexes.

See leading article in 12 Va. Law Reg. 419, on the duty of a railroad company to licensees on its tracks.